

Requirements for Federal-aid Consultant Contracts

There are a number of provisions in Federal-aid consultant contracts that are required either by Federal regulations or for effective and efficient oversight by the Iowa DOT. Therefore, use of the Standard Consultant Contract, as shown in in [Attachment D](#) to I.M. 3.310, is required.

Nevertheless, the Standard Consultant Contract can and should be modified to fit the needs of the project and the desired services. Even so, modifications should be made only when necessary, and substantive modifications to required contract provisions will not be allowed. A substantive change is one that affects the meaning or application of the provision in a way that circumvents the original intent. Keeping changes to a minimum will help speed up the review by the Iowa DOT and ensure that all the Federal requirements are met.

The purpose of this attachment is to show which provisions in the Standard Consultant Contract may not be substantively modified. These provisions are listed below, with a reference the appropriate Article(s) or page numbers in Standard Consultant Contract shown in parenthesis.

Required Contract Provisions

The following provisions are requirements and must be included in all Federal-aid consultant contracts between a Local Public Agency (LPA) and its consultant. These provisions must also be included in all subcontracts between the prime consultant and its subconsultants. Such contracts shall:

1. Clearly define the parties to the contract (page 1).
2. Include the name of the project for which services are being provided (page 1).
3. Include a general description of the services to be performed (page 1).
4. Set forth the time of beginning and completion of work under the contract (1.4).
5. Include a provision that prohibits beginning final design activities until after FHWA Environmental Concurrence has been obtained. For more information on this requirement, see the "Contract Administration" section of [I.M. 3.310](#) (1.4.3).
6. Include a statement that the consultant agrees to comply with all federal, state and local laws and ordinances applicable to the work (2.3).
7. Include provisions that require approval of both the Owner and the Iowa DOT before the prime consultant may use cost underruns associated with subcontracts (3.2).
8. Include provisions that address the ownership of engineering documents (4.1).
9. Include provisions that require a licensed engineer or architect in the State of Iowa to certify the plans and specifications (4.3).
10. Include provisions for inspection and acceptance of the consultant's work by the Owner (4.4, 4.5, and 4.6.1)
11. Include a clause requiring the consultant to perform such additional work as may be necessary to correct errors in the work required under the contract. The consultant should complete the additional work without undue delays and without additional cost to the owner. In addition, the consultant should be held responsible for additional costs in subsequent related construction work, resulting from errors or omissions which are a result of gross negligence or carelessness on the part of the consultant (4.6.2)
12. Set forth the terms under which the consultants may be compensated for extra work (4.7)
13. Include provisions for time extensions (4.8).

14. Include a clause stating that the consultant shall defend, indemnify and hold harmless the LPA, the State of Iowa and the Iowa DOT, its agents, employees, representatives, assigns and from all claims and liabilities due to negligent acts, errors, or omissions of the consultant, its members, agents, stockholders or employees in connection with performance of the contract (4.9.1).
15. Include a conflict of interest provision stating that the consultant shall not engage the services of any person or persons, in the employ of the LPA, Iowa DOT, or FHWA for work covered by the contract without addressing potential conflicts of interest and obtaining the written consent of the employers of such persons (4.10).
16. Include provisions that apply in the event that the contract is terminated or suspended. (4.11, 4.12)
17. Include provisions prohibiting assignment or transfer of any portion of the contract without the written approval of the LPA and concurrence of the Iowa DOT and FHWA, if applicable (4.14).
18. Include provisions that provide for access to the consultant's records and sets forth the time of record retention as three years from the date of final payment under the Contract (4.15).
19. Include provisions acknowledging that the consultant's work is subject to the review and approval of the Iowa DOT and FHWA (when applicable), and that both have the right to participate in conferences between the owner and the consultant (4.16).
20. Contain provisions ensuring compliance with the nondiscrimination and Disadvantaged Business Enterprise (DBE) requirements contained in Title 49 of the Code of Federal Regulations, and the nondiscrimination requirements of the Code of Iowa (4.17, 4.18).
21. Include a page for signature by the contracting agency and the consultant. This page shall also include the following signature block for the Iowa DOT (page 10):

Iowa Department of Transportation
Accepted for FHWA Authorization*

By _____

Date _____

Name _____

Title _____

* The Iowa DOT is not a party to this agreement. However, by signing this agreement, the Iowa DOT is indicating the work proposed under this Agreement is acceptable for FHWA authorization of Federal funds.

22. Contain a scope of services section that specifically details each individual task to be performed and describes what each task is to accomplish (Attachment A – Scope of Services).
23. Clearly define the specifications for the consultant contract work, such as the quantity and format of the project deliverables. Project deliverables may include hard and / or electronic copies of plans, specifications, and other electronic files (Attachment B – Specifications).
24. Contain a section covering fees and payments to the consultant. This section shall specify the method(s) of payment (Attachment C – Fees and Payments).
25. If the contract includes construction engineering (CE) services, include a provision for withholding retainage. For other types of services, the retention provision is optional (Attachment C – Fees and Payments).
26. Include a clause stating that the consultant agrees to reimburse the Owner for any overpayment determined by final audit (Attachment C – Fees and Payments).
27. Contain a section whereby the consultant agrees to comply with the cost principles specified by the Federal Acquisition Regulations found in 48 CFR 31 (Attachment C – Fees and Payments).

28. If the contract uses a Cost Plus Fixed Fee or Fixed Overhead Rate method of compensation, attach a detailed itemized cost estimate that includes a summary of staff hours, fees, indirect costs and any subcontract costs. Any costs not eligible for Federal-aid participation should be clearly identified (Attachment C – Fees and Payments, Cost Plus Fixed Fee and Fixed Overhead Rate options).
29. If the contract uses a Specific Rate of Compensation or Unit Price method of compensation, attach a fee schedule that specifies the rates or unit prices that will be used (Attachment C – Fees and Payments, Specific Rate of Compensation and Unit Price options).
30. Include a consultant certification regarding suspension and debarment (Attachment D).
31. Include a consultant certification regarding unauthorized brokering, commissions, fees, contributions or other considerations in connection with procuring or carrying out the contract (Attachment E).
32. Include an owner certification regarding unauthorized commissions, fees, contributions or other considerations received in connection with awarding the contract (Attachment F).